

To: Honorable Dan Niziolek
From: James Moncur, Director
Prepared by: Julie Casey, Inspector
Linda Roberts, Inspector
Date: August 22, 2003
Re: Report to PS&RS on
Licensing Enforcement Procedures

The City of Minneapolis has multiple methods available to resolve issues surrounding problem businesses. The following is a summary of some of the avenues available to correct problem businesses.

1. ORDERS/WARNINGS

Businesses that violate city ordinances are given an order to comply. This allows the business to comply before penalties are applied.

Implementation:

Licensing has been successful in writing orders to achieve compliance due to the threat of administrative citations and higher penalties. Orders can be written by hand in the field and or a letter mailed out to the licensee by entering a request for service into KIVA. Since the beginning of June 2002 there were 695 orders/warnings that were issued in our computerized tracking system, KIVA. In 2003 it is anticipated that we will far exceed that number (1091 written to date in 2003).

2. CITATIONS

A. Criminal Citations

Businesses that violate city ordinances are subject to misdemeanor citations. Misdemeanor penalties include up to a \$1000.00 fine and/or 90 days in jail.

Implementation:

Criminal citations are utilized rarely. Written only for violations when either the activity can never be licensed or when the closing the business will require the courts action.

B. Administrative Citations

A civil fine program has been established. This allows inspectors to cite businesses with pre-set fines established by city ordinance. Inspectors can fine businesses for violation of any city ordinance with an administrative citation. Businesses have appeal rights and an administrative law judge conducts the appeals.

Implementation:

This has been a very successful program. Below are the highlights for citations written:

2002		
Citations	Appeals	Fines Collected
83	1	\$10,530.00

2003 Current Numbers		
Citations	Appeals	Fines Collected
152	16	\$13,160.00

2003 Projected Numbers		
Citations	Appeals	Fines Collected
200	25	\$20-25,000.00

See complete description on diagram A.

3. TECHNICAL ADVISORY COMMITTEE HEARING (TAC)

A licensee that is a repeat offender or a violator of a serious violation where a settlement is still possible they can be called to an informal hearing with the License Division. The License Division presents evidence as to the ordinance violations and suggests a resolution and penalties to the licensee. This is a voluntary process that requires the agreement of the licensee, the licensing department, City Council and the mayor. The penalties can range from suspensions; administrative fines, probation agreement, business operating conditions or other corrective and punitive actions. If the licensee reject the agreement the business is referred to the next action.

Implementation:

It appears that due to the implementation of the administrative citation process we are conducting fewer hearings. In 2002 there were 28 hearings conducted. In 2003 there have been only 8 hearings conducted. \$17,050 fines were assessed out of TAC hearings.

Examples of dispositions of TAC hearing include,
Franklin Market, 1517-19 Franklin Avenue E, \$3,050
Metro Inn Motel, 5637 Lyndale Avenue South, operating conditions.
Park Halal Market, 701 East Lake Street, \$1200 fine.
New Meat Market, 1844 Central Avenue NE, operating conditions
Blue Nile, 2027 Franklin Avenue East, \$4000
R and R Auto, 4224-4st Street East, \$5000 fine

4. ADMINISTRATIVE LAW JUDGE AND CITY COUNCIL ACTION

If the License Division cannot reach an agreement through the TAC process or the alleged offense is of a serious nature, the issue may be referred to a hearing before an administrative law judge. The administrative law judge formally presides over the hearing in which witness testimony is taken and evidence presented for the record. The administrative law judge has the authority to make a recommendation to the City Council as to the disposition of the case that may include suspension, denial of license, revocation of the license, administrative fines or other actions.

Implementation:

Fewer cases are being referred to law judges due to the success of administrative citations. In 2002 there were 4 hearings conducted (a liquor business, motor vehicle repair garage, gas station, and grocery store) before an administrative law judge and 1 hearing before City Council. In 2003 there has been one hearing conducted before City Council to take revocation action.

Examples of dispositions include the collections of \$10,000 ALJ hearings.

Imman Conoco, 2606 Penn Avenue North- license revoked.

Las Americas Stores, \$10,000 fine and 2 day suspension.

Star Automotive, 4001 Lake Street East, action pending before council.

Auto Mart, Inc, 501 West Lake Street, revoked.

5. LICENSE CONDITIONS

When licensing is aware that a location or business type has a history of non-compliance, they may require the licensee to sign a business operating agreement. This agreement states conditions that the business must operate under in order to be granted a license. Any licensee that fails to honor the business operating agreement is subject to the above actions.

6. INJUNCTIONS

An injunction is a court action started by the City Attorney requesting specific relief from a court. This is used only after other means to resolve the situation go unresolved.